

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1001 be amended to read as follows:

1 Page 295, delete lines 25 through 42, begin a new paragraph and
2 insert:

3 "SECTION 291. IC 6-2.5-2-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 2.

5 (a) **Except as provided in subsection (b)**, the state gross retail tax is
6 measured by the gross retail income received by a retail merchant in a
7 retail unitary transaction and is imposed at the following rates:

8	STATE	GROSS RETAIL INCOME		
9	GROSS	FROM THE		
10	RETAIL	RETAIL UNITARY		
11	TAX	TRANSACTION		
12	\$ 0		less than	\$0.09
13	\$ 0.01	at least \$ 0.09	but less than	\$0.25
14	\$ 0.02	at least \$ 0.25	but less than	\$0.42
15	\$ 0.03	at least \$ 0.42	but less than	\$0.59
16	\$ 0.04	at least \$ 0.59	but less than	\$0.75
17	\$ 0.05	at least \$ 0.75	but less than	\$0.92
18	\$ 0.06	at least \$ 0.92	but less than	\$1.09
19	\$ 0		less than	\$0.08
20	\$ 0.01	at least \$ 0.08	but less than	\$0.21
21	\$ 0.02	at least \$ 0.21	but less than	\$0.36
22	\$ 0.03	at least \$ 0.36	but less than	\$0.51
23	\$ 0.04	at least \$ 0.51	but less than	\$0.64
24	\$ 0.05	at least \$ 0.64	but less than	\$0.79
25	\$ 0.06	at least \$ 0.79	but less than	\$0.93
26	\$ 0.07	at least \$ 0.93	but less than	\$1.07

27 On a retail unitary transaction in which the gross retail income received
28 by the retail merchant is one dollar and ~~nine seven~~ cents (~~\$1.09~~)
29 (**\$1.07**) or more, the state gross retail tax is ~~six seven~~ percent (~~6%~~)
30 (**7%**) of that gross retail income.

31 **(b) This subsection applies only if a proposed amendment to the**

1 Constitution of the State of Indiana to limit a taxpayer's property
 2 tax liability to a specified percentage of the assessed value of the
 3 taxpayer's property has not, before December 1, 2010, been
 4 submitted under Article 16 of the Constitution of the State of
 5 Indiana to the electorate of Indiana for a popular vote. If this
 6 subsection applies, then notwithstanding subsection (a) the state
 7 gross retail tax is imposed at the following rates after December 31,
 8 2010:

9 STATE	GROSS RETAIL INCOME		
10 GROSS	FROM THE		
11 RETAIL	RETAIL UNITARY		
12 TAX	TRANSACTION		
13 \$ 0		less than	\$0.09
14 \$ 0.01	at least \$ 0.09	but less than	\$0.25
15 \$ 0.02	at least \$ 0.25	but less than	\$0.42
16 \$ 0.03	at least \$ 0.42	but less than	\$0.59
17 \$ 0.04	at least \$ 0.59	but less than	\$0.75
18 \$ 0.05	at least \$ 0.75	but less than	\$0.92
19 \$ 0.06	at least \$ 0.92	but less than	\$1.09

20 Notwithstanding subsection (a), if this subsection applies, then on
 21 any retail unitary transaction after December 31, 2010, in which
 22 the gross retail income received by the retail merchant is one dollar
 23 and nine cents (\$1.09) or more, the state gross retail tax is six
 24 percent (6%) of that gross retail income.

25 ~~(b)~~ (c) If the tax computed under subsection (a) or (b) results in a
 26 fraction of one-half cent (\$0.005) or more, the amount of the tax shall
 27 be rounded to the next additional cent.

28 SECTION 292. IC 6-2.5-6-7 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 7.

30 (a) Except as otherwise provided in IC 6-2.5-7 or in this chapter, a
 31 retail merchant shall pay to the department, for a particular reporting
 32 period, an amount equal to the product of:

33 ~~(1) six percent (6%); multiplied by~~

34 ~~(2) (1) the retail merchant's total gross retail income from taxable~~
 35 ~~transactions made during the reporting period; multiplied by~~

36 ~~(2) the following percentage:~~

37 ~~(A) Seven percent (7%), if the rates specified in~~
 38 ~~IC 6-2.5-2-2(a) are in effect.~~

39 ~~(B) Six percent (6%), if the rates specified in~~
 40 ~~IC 6-2.5-2-2(b) are in effect.~~

41 (b) The amount determined under this section is the retail
 42 merchant's state gross retail and use tax liability regardless of the
 43 amount of tax ~~he~~ the retail merchant actually collects.

44 SECTION 293. IC 6-2.5-6-8 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 8.

46 (a) For purposes of determining the amount of state gross retail and use
 47 taxes which ~~he~~ a retail merchant must remit under section 7 of this

1 chapter, ~~the~~ retail merchant may exclude from ~~his~~ **the retail**
 2 **merchant's** gross retail income from retail transactions made during
 3 a particular reporting period, an amount equal to the product of:

- 4 (1) the amount of that gross retail income; multiplied by
 5 (2) the retail merchant's "income exclusion ratio" for the tax year
 6 which contains the reporting period.

7 (b) a retail merchant's "income exclusion ratio" for a particular tax
 8 year equals a fraction, the numerator of which is the retail merchant's
 9 estimated total gross retail income for the tax year from unitary retail
 10 transactions which produce gross retail income of less than:

- 11 **(1) eight cents (\$0.08) each, if the rates specified in**
 12 **IC 6-2.5-2-2(a) are in effect; and**
 13 **(1) nine cents (\$0.09) each, if the rates specified in**
 14 **IC 6-2.5-2-2(b) are in effect;**

15 and the denominator of which is the retail merchant's estimated total
 16 gross retail income for the tax year from all retail transactions.

17 (c) In order to minimize a retail merchant's recordkeeping
 18 requirements, the department shall prescribe a procedure for
 19 determining the retail merchant's income exclusion ratio for a tax year,
 20 based on a period of time, not to exceed fifteen (15) consecutive days,
 21 during the first quarter of the retail merchant's tax year. However, the
 22 period of time may be changed if the change is requested by the retail
 23 merchant because of ~~his~~ **the retail merchant's** peculiar accounting
 24 procedures or marketing factors. In addition, if a retail merchant has
 25 multiple sales locations or diverse types of sales, the department shall
 26 permit the retail merchant to determine the ratio on the basis of a
 27 representative sampling of the locations and types of sales.

28 SECTION 294. IC 6-2.5-6-10, AS AMENDED BY P.L.211-2007,
 29 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 APRIL 1, 2008 (RETROACTIVE)]: Sec. 10. (a) In order to compensate
 31 retail merchants for collecting and timely remitting the state gross retail
 32 tax and the state use tax, every retail merchant, except a retail merchant
 33 referred to in subsection ~~(c)~~; **(d)**, is entitled to deduct and retain from
 34 the amount of those taxes otherwise required to be remitted under
 35 IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's
 36 collection allowance.

37 **(b) Except as provided in subsection (c),** the allowance equals a
 38 percentage of the retail merchant's state gross retail and use tax liability
 39 accrued during a calendar year, specified as follows:

- 40 ~~(1) Eighty-three~~ **Seventy-three** hundredths percent ~~(0.83%)~~;
 41 **(0.73%)**, if the retail merchant's state gross retail and use tax
 42 liability accrued during the state fiscal year ending on June 30 of
 43 the immediately preceding calendar year did not exceed sixty
 44 thousand dollars (\$60,000).
 45 ~~(2) Six-tenths~~ **Fifty-three** hundredths percent ~~(0.6%)~~; **(0.53%)**,
 46 if the retail merchant's state gross retail and use tax liability
 47 accrued during the state fiscal year ending on June 30 of the

1 immediately preceding calendar year:

2 (A) was greater than sixty thousand dollars (\$60,000); and

3 (B) did not exceed six hundred thousand dollars (\$600,000).

4 (3) ~~Three-tenths~~ **Twenty-six hundredths** percent (~~0.3%~~;
5 **0.26%**), if the retail merchant's state gross retail and use tax
6 liability accrued during the state fiscal year ending on June 30 of
7 the immediately preceding calendar year was greater than six
8 hundred thousand dollars (\$600,000).

9 **(c) This subsection applies only if the rates specified in**
10 **IC 6-2.5-2-2(b) are in effect. Notwithstanding subsection (b), if this**
11 **subsection applies, then after December 31, 2010, the allowance**
12 **equals a percentage of the retail merchant's state gross retail and**
13 **use tax liability accrued during a calendar year, specified as**
14 **follows:**

15 **(1) Eighty-three hundredths percent (0.83%), if the retail**
16 **merchant's state gross retail and use tax liability accrued**
17 **during the state fiscal year ending on June 30 of the**
18 **immediately preceding calendar year did not exceed sixty**
19 **thousand dollars (\$60,000).**

20 **(2) Six-tenths percent (0.6%), if the retail merchant's state**
21 **gross retail and use tax liability accrued during the state fiscal**
22 **year ending on June 30 of the immediately preceding calendar**
23 **year:**

24 (A) was greater than sixty thousand dollars (\$60,000); and

25 (B) did not exceed six hundred thousand dollars (\$600,000).

26 (3) ~~Three-tenths~~ percent (~~0.3%~~), if the retail merchant's state
27 gross retail and use tax liability accrued during the state fiscal
28 year ending on June 30 of the immediately preceding calendar
29 year was greater than six hundred thousand dollars
30 (\$600,000).

31 ~~(c)~~ **(d)** A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6
32 is not entitled to the allowance provided by this section.

33 SECTION 295. IC 6-2.5-7-3 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 3.

35 (a) With respect to the sale of gasoline which is dispensed from a
36 metered pump, a retail merchant shall collect, for each unit of gasoline
37 sold, state gross retail tax in an amount equal to the product, rounded
38 to the nearest one-tenth of one cent (\$0.001), of:

39 (1) the price per unit before the addition of state and federal taxes;
40 multiplied by

41 (2) ~~six percent (6%); the following percentage:~~

42 **(A) Seven percent (7%), if the rates specified in**
43 **IC 6-2.5-2-2(a) are in effect.**

44 **(B) Six percent (6%), if the rates specified in**
45 **IC 6-2.5-2-2(b) are in effect.**

46 The retail merchant shall collect the state gross retail tax prescribed in
47 this section even if the transaction is exempt from taxation under

1 IC 6-2.5-5.

2 (b) With respect to the sale of special fuel or kerosene which is
3 dispensed from a metered pump, unless the purchaser provides an
4 exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant
5 shall collect, for each unit of special fuel or kerosene sold, state gross
6 retail tax in an amount equal to the product, rounded to the nearest
7 one-tenth of one cent (\$0.001), of:

8 (1) the price per unit before the addition of state and federal taxes;
9 multiplied by

10 (2) ~~six percent (6%)~~; **the following percentage:**

11 (A) **Seven percent (7%), if the rates specified in**
12 **IC 6-2.5-2-2(a) are in effect.**

13 (B) **Six percent (6%), if the rates specified in**
14 **IC 6-2.5-2-2(b) are in effect.**

15 Unless the exemption certificate is provided, the retail merchant shall
16 collect the state gross retail tax prescribed in this section even if the
17 transaction is exempt from taxation under IC 6-2.5-5.

18 SECTION 296. IC 6-2.5-7-5, AS AMENDED BY P.L.182-2007,
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 APRIL 1, 2008 (RETROACTIVE)]: Sec. 5. (a) Each retail merchant
21 who dispenses gasoline or special fuel from a metered pump shall, in
22 the manner prescribed in IC 6-2.5-6, report to the department the
23 following information:

24 (1) The total number of gallons of gasoline sold from a metered
25 pump during the period covered by the report.

26 (2) The total amount of money received from the sale of gasoline
27 described in subdivision (1) during the period covered by the
28 report.

29 (3) That portion of the amount described in subdivision (2) which
30 represents state and federal taxes imposed under this article,
31 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

32 (4) The total number of gallons of special fuel sold from a
33 metered pump during the period covered by the report.

34 (5) The total amount of money received from the sale of special
35 fuel during the period covered by the report.

36 (6) That portion of the amount described in subdivision (5) that
37 represents state and federal taxes imposed under this article,
38 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

39 (7) The total number of gallons of E85 sold from a metered pump
40 during the period covered by the report.

41 (b) Concurrently with filing the report, the retail merchant shall
42 remit the state gross retail tax in an amount which equals:

43 (1) **six and fifty-four hundredths percent (6.54%) of the gross**
44 **receipts, if the rates specified in IC 6-2.5-2-2(a) are in effect;**
45 **and**

46 (2) **five and sixty-six hundredths percent (5.66%) of the gross**
47 **receipts, if the rates specified in IC 6-2.5-2-2(b) are in effect;**

1 including state gross retail taxes but excluding Indiana and federal
 2 gasoline and special fuel taxes, received by the retail merchant from the
 3 sale of the gasoline and special fuel that is covered by the report and on
 4 which the retail merchant was required to collect state gross retail tax.
 5 The retail merchant shall remit that amount regardless of the amount
 6 of state gross retail tax which ~~he~~ **the merchant** has actually collected
 7 under this chapter. However, the retail merchant is entitled to deduct
 8 and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and
 9 IC 6-2.5-6-11.

10 (c) A retail merchant is entitled to deduct from the amount of state
 11 gross retail tax required to be remitted under subsection (b) the amount
 12 determined under STEP THREE of the following formula:

13 STEP ONE: Determine:

14 (A) the sum of the prepayment amounts made during the
 15 period covered by the retail merchant's report; minus

16 (B) the sum of prepayment amounts collected by the retail
 17 merchant, in the merchant's capacity as a qualified distributor,
 18 during the period covered by the retail merchant's report.

19 STEP TWO: Subject to subsection (d), for reporting periods
 20 ending before July 1, 2020, determine the product of:

21 (A) eighteen cents (\$0.18); multiplied by

22 (B) the number of gallons of E85 sold at retail by the retail
 23 merchant during the period covered by the retail merchant's
 24 report.

25 STEP THREE: Add the amounts determined under STEPS ONE
 26 and TWO.

27 For purposes of this section, a prepayment of the gross retail tax is
 28 presumed to occur on the date on which it is invoiced.

29 (d) The total amount of deductions allowed under subsection (c)
 30 STEP TWO may not exceed one million dollars (\$1,000,000) for all
 31 retail merchants in all reporting periods. A retail merchant is not
 32 required to apply for an allocation of deductions under subsection (c)
 33 STEP TWO. If the department determines that the sum of:

34 (1) the deductions that would otherwise be reported under
 35 subsection (c) STEP TWO for a reporting period; plus

36 (2) the total amount of deductions granted under subsection (c)
 37 STEP TWO in all preceding reporting periods;

38 will exceed one million dollars (\$1,000,000), the department shall
 39 publish in the Indiana Register a notice that the deduction program
 40 under subsection (c) STEP TWO is terminated after the date specified
 41 in the notice and that no additional deductions will be granted for retail
 42 transactions occurring after the date specified in the notice."

43 Delete pages 296 through 299.

44 Page 300, delete lines 1 through 6.

45 Page 302, delete lines 2 through 22, begin a new paragraph and
 46 insert:

47 "SECTION 300. IC 6-2.5-10-1, AS AMENDED BY P.L.234-2007,

1 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 MAY 1, 2008]: Sec. 1. (a) The department shall account for all state
3 gross retail and use taxes that it collects.

4 (b) **Except as provided in subsection (c)**, the department shall
5 deposit those collections **described in subsection (a)** in the following
6 manner:

7 (1) Fifty percent (50%) of the collections shall be paid into the
8 property tax replacement fund established under IC 6-1.1-21.

9 (2) ~~(1) Forty-nine~~ **Ninety-nine** and ~~sixty-seven~~ **one hundred**
10 **seventy-eight** thousandths percent (~~49.067%~~) (**99.178%**) of the
11 collections shall be paid into the state general fund.

12 (3) ~~(2) Seventy-six~~ **Sixty-seven** hundredths of one percent
13 (~~0.76%~~) (**0.67%**) of the collections shall be paid into the public
14 mass transportation fund established by IC 8-23-3-8.

15 (4) ~~(3) Thirty-three~~ **Twenty-nine** thousandths of one percent
16 (~~0.033%~~) (**0.029%**) of the collections shall be deposited into the
17 industrial rail service fund established under IC 8-3-1.7-2.

18 (5) ~~(4) Fourteen-hundredths~~ **One hundred twenty-three**
19 **thousandths** of one percent (~~0.14%~~) (**0.123%**) of the collections
20 shall be deposited into the commuter rail service fund established
21 under IC 8-3-1.5-20.5.

22 (c) **This subsection applies only if the rates specified in**
23 **IC 6-2.5-2-2(b) are in effect. Notwithstanding subsection (b), if this**
24 **subsection applies, the department shall deposit those collections**
25 **described in subsection (a) in the following manner:**

26 (1) Fifty percent (50%) of the collections shall be paid into the
27 property tax replacement fund established under IC 6-1.1-21.

28 (2) Forty-nine and sixty-seven thousandths percent (49.067%)
29 of the collections shall be paid into the state general fund.

30 (3) Seventy-six hundredths of one percent (0.76%) of the
31 collections shall be paid into the public mass transportation
32 fund established by IC 8-23-3-8.

33 (4) Thirty-three thousandths of one percent (0.033%) of the
34 collections shall be deposited into the industrial rail service
35 fund established under IC 8-3-1.7-2.

1 **(5) Fourteen-hundredths of one percent (0.14%) of the**
2 **collections shall be deposited into the commuter rail service**
3 **fund established under IC 8-3-1.5-20.5."**

4 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1001 as printed February 20, 2008.)

Senator STEELE